

STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 19264

Application 27352 of Northern Resources, Inc. (over)

2060 Hilltop Drive, Redding, California 96002

filed on June 3, 1982, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

Montgomery Creek

Pit River

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Town- ship	Range	Base and Meridian
South 22°30"West, 938 feet from NE corner of Section 2	NE $\frac{1}{4}$ of NE $\frac{1}{4}$	2	34N	1W	MD

County of Shasta

3. Purpose of use:	4. Place of use:	Section	Town- ship	Range	Base and Meridian	Acres
Power	SW $\frac{1}{4}$ of NE $\frac{1}{4}$	34	35N	1W	MD	

The place of use is shown on map filed with the State Water Resources Control Board.

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12-15-86 Assign to El Dorado Hydro, a Calif. General Partnership

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 80 cubic feet per second to be diverted from January 1 through December 31 of each year. (0000005)

The equivalent of the continuous flow allowance for any 14-day period may be diverted in a shorter time, provided there be no interference with other rights (00000027)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Permittee shall obtain full project financing and commence construction of the project within two years after the date of this permit and shall thereafter prosecute the project with reasonable diligence. In no event shall permittee commence construction in Montgomery Creek or divert any water from Montgomery Creek unless it has financing to completely construct the project. (0000007)

8. Construction work shall be completed by December 1, 1988. → (0000008)

9. Complete application of the water to the authorized use shall be made by December 1, 1995. (0000009)

10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (0000010)

11. Permittee shall allow representatives of the State Water Resources Control Board and other parties as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

12. Pursuant to California Water Code Sections 100 and 275, and the public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses, prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) to installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action takes into account the public interest and is necessary to protect public trust uses. All such actions shall conform to the standard of reasonableness contained in Article X, Section 2 of the California Constitution. (0000012)

13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

14. Water diverted under this permit is for nonconsumptive use and is to be released to Montgomery Creek immediately below the powerhouse upstream from the Pit No. 7 Reservoir within the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 34, T35N, R1W, MDB&M. (0000111)

15. All rights and privileges to appropriate water for power purposes under this permit and any subsequently issued license are subject to depletions resulting from future upstream appropriation for domestic and stockwatering uses within the watershed. Such rights and privileges may also be subject to future upstream appropriations for uses within the watershed other than domestic and stockwatering if and to the extent that the Board determines, pursuant to Water Code Sections 100 and 275, that the continued exercise of the appropriation for power purposes is unreasonable in light of the proposed uses. Any such determination shall be made only after notice to permittee or licensee of an application for any such future upstream appropriation and the opportunity to be heard; provided that a hearing, if requested, may be consolidated with the hearing on such applications. (0001001)

16. For the protection of fish, wildlife and riparian vegetation, permittee shall:

- a. Bypass minimum of 20 cubic feet per second from January 1 through December 31. The total streamflow shall be bypassed whenever it is less than 20 cubic feet per second.
- b. Monitor stream flow release by a recording gage, located immediately downstream from the diversion site. The recording gage shall be acceptable to the Board. The daily record of maximum and minimum flows shall be provided to the California Department of Fish and Game annually by December 31 of each year for the preceding October 1 - September 30 water year.
- c. Install a fish screen of a type and in a location that is acceptable to the Department of Fish and Game. The fish screen design shall be approved, prior to project construction, by the California Department of Fish and Game. The screen shall be approved in writing by the Department of Fish and Game prior to project operations.
- d. Enter into a stream alteration agreement with the Department of Fish and Game, and/or obtain a Department determination that measures to protect fishlife have been incorporated into the plans for construction of such diversion works in accordance with Section 1601, 1603, and/or Section 6100 of the Fish and Game Code. No work shall be started on the diversion works or water diverted until permittee obtains this agreement or determination. Construction, operation, and maintenance costs of any required facility are the responsibility of permittee.
- e. In order to prevent fish stranding, the amount diverted shall be gradually increased at a rate not to exceed 30 percent of the stream flow per hour.
- f. Incorporate a mechanism that will automatically and immediately stop the diversion of water in case of a pipeline rupture.
- g. Design and construct transmission lines in such a way that they are not a hazard to raptors.
- h. Prior to the beginning of construction, to ensure that the pipeline does not impede wildlife movement, have the final pipeline configuration approved by the California Department of Fish and Game.
- i. For the life of the project, allow access without prior notification to agents of the California Department of Fish and Game for the purposes of ensuring proper operation and maintenance of fish and wildlife protective measures. (0140400)

17. No water shall be used under this permit until all necessary federal, state, and local approvals have been obtained, including compliance with any applicable Federal Energy Regulatory Commission requirement. (000J001)

18. Permittee shall allow public access to the pipeline and access corridor via the existing Montgomery Creek Falls Road. Permittee shall allow pedestrian traffic by the public to public lands for all lawful purposes via the pipeline and access corridor from sunrise to one hour after sunset. This term shall not be construed to prevent implementation of reasonable security measures to (0030300) protect the project facilities.

19. Permittee shall consult with the Department of Fish and Game and the Board to develop a plan of project operation which will enhance spawning gravels downstream from the diversion structure. This plan shall be accepted in writing by the Department of Fish and Game and by the Board. (0400500)

20. a. Permittee shall comply with Parts I and II of the "Guidelines for Protection of Water Quality during Construction and Operation of Small Hydro Projects" (Guidelines) as contained in the Water Quality Control Plans of the Central Valley Basin.

b. Specific requirements set forth in the permit shall prevail over any specific or general requirements in the referenced Guidelines in the event of conflict.

c. When complying with the Guidelines pursuant to this condition, the permittee shall not commence construction until the Erosion Control Plan and any baseline data required by the Guidelines have been submitted to and approved in writing by the Regional Board; and before commencing sluicing operations, the permittee shall submit and receive written approval from the Regional Board of the Sluicing Operation Plan. (0000102)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated:

JUNE 28 1984

STATE WATER RESOURCES CONTROL BOARD

Raymond Walsh